

1 Roger Stacy  
2 #208500  
3 3665 Ruffin Road 310  
4 San Diego, CA 92123

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7 UNITED STATES BANKRUPTCY COURT

8 SOUTHERN DISTRICT OF CALIFORNIA

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10 In re: ) Case No.: 10-12781  
11 Laura B Flores ) Motion to Vacate Order Dismissing Case  
12 Debtor. )  
13 ) Date: August 13, 2010  
14 ) Time: 3:00 PM  
15 ) Department: 1  
16 )

17 **Motion to Vacate Order Dismissing Case**

18 **Background**

19 Debtor's Chapter 13 case was filed on July 21, 2010 as a bare bones filing. On August 6, 2010, the Court  
20 dismissed her case for failure to file the Balance of Schedules. On August 9, the Balance of Schedules,  
21 Chapter 13 Plan and the *Emergency Ex Parte Motion to Shorten Time* to hear the instant motion were  
22 filed.

23 **Factual & Legal Basis for Vacating Order Dismissing Case**

24 The instant motion is timely filed as required by *Bankruptcy Rule 9023* having been made just 5 days  
25 following the Court's Order of Dismissal. Under *Bankruptcy Rule 9024*, relief from a Judgment or Order  
can be made on the grounds of mistake, surprise, inadvertence or excusable neglect. See *FRCP 60(b)(1)*.  
In this case, the Balance of Schedules and Chapter 13 Plan were not timely filed due to excusable neglect  
as set forth in the attached Declaration of Roger Stacy. Based upon the forgoing and the following  
Declaration, Debtor requests that this court vacate its previous Order dismissing the case.

Dated: August 11, 2010

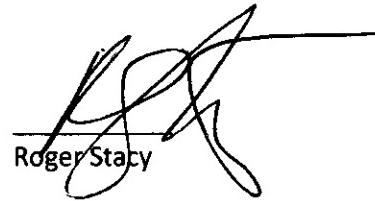
Roger Stacy

1                   **Declaration of Roger Stacy in Support of Motion to Vacate Order Dismissing Case**  
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1. I am the Attorney of Record in the above-captioned case.
2. The Balance of Schedules and Chapter 13 Plan should have been filed within 14 days  
from the filing of the case (on or about August 3, 2010).
3. Due to the requirements of my busy office practice and other personal distractions, I  
forgot to file the remaining documents in the case by that date.
4. Immediately subsequent to the dismissal of the case on August 9, 2010, I filed the  
Balance of Schedules and Chapter 13 Plan and the *Emergency Ex Parte Motion to  
Shorten Time* in order to correct the situation.
5. I am taking steps to prevent this sort of oversight from happening again in the future  
and request that this Court vacate its previous Order Dismissing the case.

10                   Respectfully Submitted,

11                   Dated: August 11, 2010

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Roger Stacy

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